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SUBJECT: BAS-CONGO UPDATE: COURT GRANTS APPEAL FOR
GUBERNATORIAL RE-VOTE

REF: A. KINSHASA 102
[1](#)B. KINSHASA 134

[1](#)1. (U) The Court of Appeals in the Bas-Congo capital of Matadi granted a request February 8 by Jean-Pierre Bemba's MLC party for a re-vote for governor by provincial deputies. The court agreed on technical grounds with the MLC's contention that DRC electoral law in this case requires the winning candidate to receive at least 16 votes in order to achieve the "absolute majority" needed for victory (ref A). The initial January 27 vote gave Simon Mbatshi of Joseph Kabila's AMP coalition a 15-14 win over MLC candidate Leonard Fuka, with one seat in the thirty-member assembly vacant at the time. A representative of the Independent Electoral Commission told us following the decision that the AMP plans to appeal it to the Supreme Court in Kinshasa.

[1](#)2. (U) The MLC successfully argued that the legal formula of half the number of votes cast (14.5), plus one, meant 16 votes were needed for election. The assembly in fact has 30 seats, but the court had earlier upheld a challenge by Bas-Congo powerbroker Eugene Diomi to the credentials of one of the traditional chiefs named to it. Diomi, a Fuka ally and former mining minister who was dismissed for corruption by Kabila in November 2004, had aimed to be selected for the seat himself. However, the assembly had not yet selected a replacement by the time of the vote.

[1](#)3. (U) The apparent election of a Kabila ally in a province that voted strongly for Bemba in the October 29 presidential elections is widely believed by anti-Kabila partisans to have been due to bribery and corruption. There were violent demonstrations and attacks January 31-February 1 by adherents of the militant ethnic Kongo separatist sect Bundu dia Kongo (BDK), whose spiritual leader Ne Muanda Nsemi was the losing vice gubernatorial candidate. These led to shootings by the army and police resulting in 134 deaths by MONUC's most recent estimate (ref B).

[1](#)4. (U) The court rejected two other MLC appeals of the governor's vote for lack of evidence. The first contended that Mbatshi held dual nationality, the second that Deputy Augustin Kisombe, former provincial coordinator for Bemba's coalition, was ineligible to vote because he had resigned from the party of which he was a member when elected. (Note: Similar arguments made by the AMP in its appeal of the Equateur governor's race, won by the MLC, were likewise rejected the same day, and on the same grounds, by the Mbandaka Court of Appeals. End note.)

[1](#)5. (U) There have been no further reports of disturbances following the January 31-February 1 violence. A MONUC

detachment of 82 Uruguayan troops arrived in the coastal port of Muanda, scene of some of the deadliest fighting, to set up a mobile operating base. MONUC has also dispatched police and other troops to Matadi.

¶6. (SBU) A Commission of Inquiry headed by the prosecutor-general and the army's auditor-general is conducting an official investigation of the violence. MONUC internal reporting indicates the army has rounded up a number of persons in Matadi, Boma and Tshela "to give evidence" about the events.

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